

RESOLUTION NUMBER R- 302499

DATE OF FINAL PASSAGE MAR 27 2007

WHEREAS, California Streets and Highways Code section 8330 et seq. and San Diego Municipal Code section 125.0910 provide for the summary vacation of public street easements by City Council resolution where the easements are no longer required; and

WHEREAS, the affected property owners have requested the vacation of a portion of Poe Street and Plum Streets located adjacent to 3343 Poe Street, to unencumber this property; and

WHEREAS, under Charter section 280(a)(2) this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body and where a public hearing was required by law implicating due process rights of individuals affected by the decision and where the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; and

WHEREAS, the City Council finds that:

(a) there is no present or prospective use for the street either for the public street system, for which the right-of-way was originally acquired, or for any other public use of a like nature that can be anticipated in that the right-of-way is not needed for public street, bikeway, or open space purposes; and

(b) the public will benefit from the vacation through improved utilization of land; and

(c) the vacation is not inconsistent with the General Plan or the Peninsula Community Plan and Local Coastal Program Plan, and

(d) a sewer, water, storm drain, access, and general utilities easement will be reserved in the vacated right-of-way; and

(e) a public street will be dedicated to provide a required turn-around resulting from the vacated street; and

(f) the public street system for which the right-of-way was originally acquired will not be detrimentally affected by this vacation; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that it adopts the following findings with respect to Public Right-of-Way Vacation Permit No. 161318 as follows:

**A. PUBLIC RIGHT-OF-WAY VACATION – SAN DIEGO MUNICIPAL CODE  
[SDMC] SECTION 125.0941**

**1. There is no present or prospective public use for the public right-of-way, either for the facility for which it was originally acquired or for any other public use of a like anticipated nature that can be anticipated.** The portion of the public right-of-way proposed to be vacated has never been utilized as a street and would not provide a logical connection to any other street or property. The portions of Poe and Plum Streets proposed to be vacated are unimproved and impassable to vehicle traffic, and do not provide access to any abutting properties or rights-of-way. Additionally, the area proposed to be vacated is inaccessible to vehicles and foot traffic due to the steep topography and therefore unusable for safe pedestrian activities. The portion of the street to be vacated along Plum Street abuts a previously vacated 6,300 square foot portion of Plum Street at Oliphant Street thereby further precluding possible connection of Plum Street as a possible future right-of-way connection for vehicle traffic. Therefore, it is not anticipated that the portion of right-of-way proposed to be vacated would provide a public use of a similar nature.

**2. The public will benefit from the action through improvised use of the land made available by vacation.** The abutting property owners would benefit in that the vacation would revert the dedicated portion of the right-of-way back to private ownership. Additionally, allowing the vacation of this portion of right-of-way would reduce City liability. The proposed vacation would include the retention of the general utility easements and overhead utilities. Therefore, the proposed right-of-way vacation would benefit the public by minimizing public liability while maintaining the public use through a general utility easement.

**3. The vacation does not adversely affect any applicable land use plan or.** No portion of the proposed alley vacation or adjacent properties has been so designated as open space, pedestrian pathway, or a public view corridor in the Peninsula Community Plan and Local Coastal Program Plan. The City of San Diego had determined that the land is not suitable for use as a pocket park due to its steep topography (40 percent slopes). Additionally, the area proposed for vacation is zoned for single-family development, and the land would revert to the abutting single-family property owners. Therefore, the proposed right-of-way vacation does not adversely impact the recommendations found in the community plan.

**4. The public facility for which the public right-of-way was originally acquired will not be detrimentally affected by the vacation.** The California Vehicle Code [2001] defines "Street" as a way or place of whatever nature publicly maintained and open to the use of public purposes of vehicular travel. The area proposed for vacation was dedicated as a 70-foot wide right-of-way which would have extended both Poe and Plum Streets. However, due to the steep topography, the road segment could not be completed. The purpose and intent for which the public right-of-way was originally dedicated no longer is in effect in that the street has not been improved and there is no future plans to do so. Therefore, the public right-of way was originally acquired will not be detrimentally affected by the proposed vacation;

BE IT FURTHER RESOLVED, by the Council of the City of San Diego, as follows:

That it adopts the following additional findings with respect to Public right-of-way vacation

Permit No. 161318 as follows:

**B. SUMMARY PUBLIC RIGHT-OF WAY VACATION - SAN DIEGO MUNICIPAL CODE [SDMC] SECTION 125.0910 (b)**

The public right-of-way contains public utility facilities that will not be affected by the vacation and the public right-of-way is excess right-of-way and is not required for street or highway purposes. NOW THEREFORE;

BE IT FURTHER RESOLVED, by the Council of the City of San Diego, as follows:

1. That the portions of Poe and Plum Streets located adjacent to 3343 Poe Street, as described in the legal description marked as Exhibit "A", and as more particularly shown on Drawing No. 20302-1-B, and 20302-2-B, labeled Exhibit "B", on file in the office of the City Clerk as Document Nos. RR-R-302499-1 302499-2, and RR-\_\_\_\_\_, and which is by this reference incorporated herein and made a part hereof, are ordered vacated, reserving therefrom easements for sewer, water, stormdrain, general utilities and access together with ingress and egress for those purposes; and

2. That, as a condition of the street vacation, Applicant has agreed that Applicant will not build a fence that would obstruct the existing path on the property, and

3. That the City Clerk shall cause a certified copy of this resolution, with attached exhibits, attested by her under seal to be recorded in the office of the County Recorder.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By KAD  
Kimberly Ann Davies  
Deputy City Attorney

KAD:cla  
02/02/2007  
Or.Dept:DSD  
R-2007-701  
COR.COPY:3/15/07  
REV: 4/04/07  
Aud. Cert.: N/A  
MMS #4189

# EXHIBIT 'A'

## STREET VACATION

BEING A PORTION OF PLUM STREET TOGETHER WITH A PORTION OF POE STREET ALL AS DEDICATED PER MAP NO. 165, LYING ADJACENT TO LOTS 1 & 12 IN BLOCK 133, LOTS 5 & 6 IN BLOCK 134, LOT 5 OF BLOCK 135 & LOT 1 OF BLOCK 136 ALL OF ROSEVILLE, IN THE CITY OF SAN DIEGO, STATE OF CALIFORNIA, ACCORDING TO MAP THEREOF NO. 165, BEING DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH EAST CORNER OF SAID LOT 6 IN BLOCK 134, SAID POINT BEING THE **TRUE POINT OF BEGINNING**; THENCE ALONG THE NORTH LINE THEREOF

- |    |  |             |  |
|----|--|-------------|--|
| 1. | NORTH 53°46'10" WEST                             | 25.34 FEET  | TO THE BEGINNING OF A NON-TANGENT 40.00-FOOT RADIUS CURVE CONCAVE WESTERLY, A RADIAL LINE TO SAID POINT BEARS SOUTH 07°16'32" WEST; THENCE LEAVING SAID NORTHERLY LINE ALONG THE ARC OF SAID CURVE |
| 2. | NORTHEASTERLY,<br>NORTHERLY AND<br>NORTHWESTERLY | 85.24 FEET  | THROUGH A CENTRAL ANGLE OF 122°05'24" TO THE SOUTHERLY LINE OF SAID LOT 5 IN BLOCK 135; THENCE ALONG SAID SOUTHERLY LINE AND CONTINUING TO AND ALONG THE SOUTHERLY LINE OF SAID LOT 1 IN BLOCK 136 |
| 3. | SOUTH 53°46'10" EAST                             | 145.22 FEET | TO THE BEGINNING OF A NON-TANGENT 40.00-FOOT RADIUS CURVE CONCAVE EASTERLY, A RADIAL LINE TO SAID POINT BEARS NORTH 18°02'09" EAST; THENCE LEAVING SAID SOUTHERLY LINE ALONG THE ARC OF SAID CURVE |
| 4. | SOUTHWESTERLY,<br>SOUTHERLY AND<br>SOUTHEASTERLY | 87.22 FEET  | THROUGH A CENTRAL ANGLE OF 124°56'07" TO THE NORTHERLY LINE OF SAID LOT 12 IN BLOCK 133; THENCE ALONG THE NORTHERLY LINE OF SAID LOT 12  |
| 5. | NORTH 53°46'10" WEST                             | 38.37 FEET  | ; THENCE ALONG THE WESTERLY LINE OF SAID LOT 12 AND SAID LOT 1 IN BLOCK 133  |
| 6. | SOUTH 36°13'50" WEST                             | 110.00 FEET | ; THENCE LEAVING SAID LINE   |
| 7. | NORTH 53°46'10" WEST                             | 70.00 FEET  | TO THE EASTERLY LINE OF SAID LOT 5 IN BLOCK 134; THENCE ALONG THE EASTERLY LINE OF SAID LOT 5 & 6 IN BLOCK 134   |
| 8. | NORTH 36°13'50" EAST                             | 110.0 FEET  | TO THE <b>TRUE POINT OF BEGINNING</b> .  |

RESERVING FROM THE HEREON DESCRIBED STREET VACATION A 30-FOOT WIDE SEWER, DRAIN AND ACCESS EASEMENT BEING LOCATED 15-FEET ON EACH SIDE OF THE CENTERLINE OF POE STREET AND A 20-FOOT WIDE GENERAL UTILITIES AND ACCESS EASEMENT LOCATED ALONG THE SOUTHWESTERLY 20-FEET OF POE STREET, THE NORTHEASTERLY LINE OF WHICH IS PARALLEL WITH AND 20-FEET NORTHEASTERLY OF THE SOUTHWESTERLY LINE OF SAID POE STREET.

CONTAINS 15,347 SQUARE FEET MORE OR LESS.

PREPARED BY:

ALTA LAND SURVEYING, INC.

MIGUEL A. MARTINEZ

L.S. 7443

LIC. EXP. 06/30/08

DATE



REFERENCE:

DWG. 20302-1-B

FILE PTS 55352

DOCUMENT NO. **RR-302499-1**

FILED **MAR 27 2007**

OFFICE OF THE CITY CLERK  
SAN DIEGO, CALIFORNIA

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SAN DIEGO, CALIFORNIA

# REFERENCE

# DRAWINGS

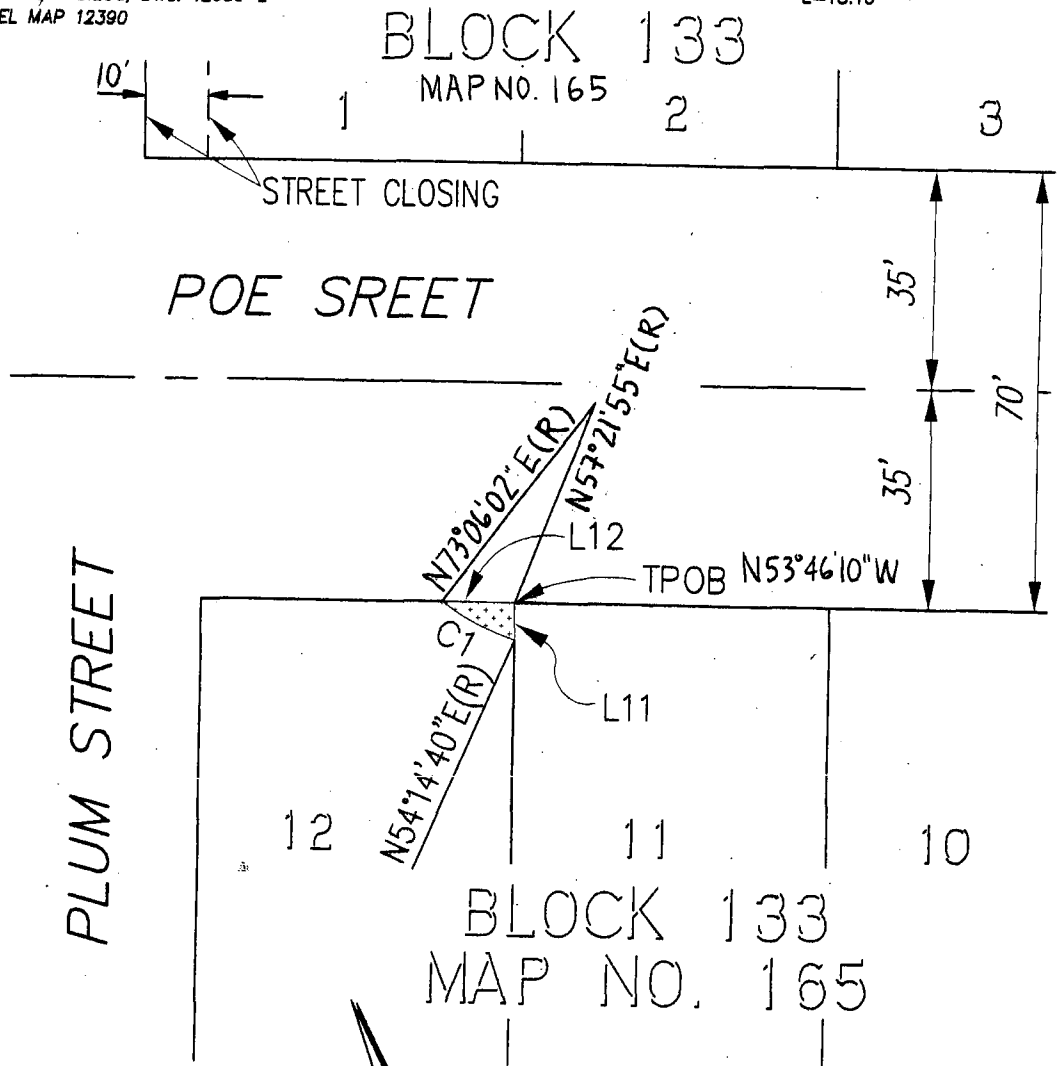
# LINE DATA:

# CURVE DATA:

MAP NO. 165  
CITY OF SAN DIEGO, DWG. 3001-D  
CITY OF SAN DIEGO, DWG. 12680-L  
PARCEL MAP 12390

L11 = N36°13'50"E 6.04'  
L12 = N53°46'10"W 11.63'

C1 D=18°51'22"  
R=40.00'  
L=13.16'



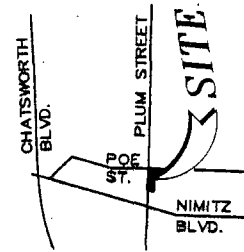
INDICATES STREET DEDICATION = 39.85 SF

SCALE: 1"=20'



ALTA LAND SURVEYING, INC.  
1638 EMERALD POINT CT.  
EL CAJON, CALIFORNIA 92019  
PHONE/FAX: (619) 579-2582  
7808204 IN: 04-780 DATE: 09/22/05

MIGUEL A. MARTINEZ, L.S. 7443 LIC. EXP. 06/30/08 DATE 09/22/05



VICINITY MAP:  
NO SCALE



STREET DEDICATION - POE STREET IN LOT 12, BLOCK 133, MAP NO. 165

DESCRIPTION	BY	APPROVED	DATE	FILMED	CITY OF SAN DIEGO, CALIFORNIA	
ORIGINAL	ALTA				SHEET 2 OF 2 SHEET	
					FOR CITY ENGINEER	P.T.S. 55352 W.O. NO. 423628
					DATE	1846-6259
						DOB '88 COORDINATES
						205-1699
						LAMBERT COORDINATES
						20302-2-B